

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:
C-14J

MEMORANDUM

SUBJECT: First Amendment to the Project Agreement for the Remedial Design of the Cuyahoga River Gorge Dam Project in Cuyahoga Falls, Ohio

FROM: Randa Bishlawi
Branch Chief

TO: T. Leverett Nelson
Regional Counsel

Enclosed for your review is an Amendment to a Project Agreement under the Great Lakes Legacy Reauthorization Act of 2008 (GLLA), 33 U.S.C. § 1268(c) et. seq., for the Remedial Design (RD) of the Cuyahoga River Gorge Dam in Cuyahoga Falls, Ohio. The GLLA authorizes the Administrator, through the Great Lakes National Program Office (GLNPO), to undertake projects that seek to remediate contaminated sediment, monitor or evaluate contaminated sediment, or prevent further or renewed contamination of sediment at the Great Lakes Areas of Concern. The Project Agreement along with this Amendment, is a contract between GLNPO and the local sponsors to compete the RD. I recommend you concur on this First Amendment to the Project Agreement for signature by Kurt Thiede in his capacity as Great Lakes National Program Manager. If you have any questions regarding this Amendment Project Agreement, please contact Susan Prout, Associate Regional Counsel, at (312) 353-1029.

Commented [GMB1]: I'm changing all instances of "EPA" to "GLNPO" to be consistent.

Commented [GMB2]: Add Amendment here?

Commented [GMB3]: Add Amendment here?

Background

The Cuyahoga River Gorge Dam is located in Cuyahoga Falls, Ohio, within the Cuyahoga River Area of Concern. Sediments behind the Gorge Dam are primarily contaminated with polyaromatic hydrocarbons (PAHs) with a maximum concentration of 86 ppm, and average concentration of 52 ppm. Fifteen of the 25 stations sampled indicate acute or chronic effects for benthic toxicity, and over 830,000 cubic yards of contaminated sediments behind the dam structure must be addressed.

Ohio EPA applied for GLLA funding for a project to complete the design of a dam removal and sediment remediation project. During the course of the remedial design EPA GLNPO and Ohio EPA concluded that the dam removal was no longer appropriate/feasible/necessary removal of the concrete dam structure was best accomplished through a different funding mechanism.

Commented [GMB4]: This decision was made when Loomis was the PM, so I asked him for input. Here is his what he said: "due to the nature of its action (removal of a dam structure), as well as in consideration of project stakeholders, in consultation with GLNPO Management – it was decided that removal of the concrete dam structure was best accomplished through other funding mechanisms (i.e. a GLRI grant to the City of Akron)." Basically, GLNPO management said we do not remove dams under the GLLA program.

I think that GLNPO management (and I'm assuming ORC) agreed that we could design the dam removal as part of the GLLA project which is why it was part of the original agreement, but then discussions with the stakeholders determined that it was more efficient/effective/safer to have the contractor that removes the dam also design it. So, we are not doing the design of the dam removal either.

Commented [PS5R4]: I do not specifically recall, BUT I do know we can design things (like O&M Plans) we might not implement.

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Therefore, the remedial design will not include the removal of the dam, although it will still include the ~~remediation~~ removal, transport, and disposal of approximately 832,000 cubic yards of contaminated sediment ~~from the Cuyahoga River, as well as the containment structure for permanent storage of the contaminated sediment from the dam pool.~~ This First Amendment to the Project Agreement adds the City of Akron (~~City~~) as a Non-Federal Sponsor and increases the total project costs to \$1.89 million. It also revises the project description to exclude the removal of the Gorge Dam ~~and adds the design of the containment structure.~~ ~~overall goal is to remove the Great Falls dam to restore natural river flows to the Cuyahoga River.~~ Removal of the dam will directly contribute to improvements in water quality and restoration of unique habitat. ~~The will examine both the contaminated sediment remediation and dam removal efforts.~~ The Project Agreement, signed on June 18, 2018, and this First Amendment, commits the parties to undertake the project, sets out the cost share, establishes the funding mechanism, identifies the project contacts and provides for dispute resolution. ~~The Project Agreement is the final step in the approval of the project.~~

Commented [GMB6]: Does this sentence make sense for an amendment? Or add "Amendment" to the sentence?

Although the original Project Agreement was entered into between ~~EPAGLNPO~~ and Ohio EPA, the parties anticipated that the City of Akron would make the required cash payments even though they are not a signatory ~~costs, the City to the Agreement.~~ This Amendment adds the City to the Agreement solely for the purpose of paying the required cost share. ~~GLNPO has estimated that the remedial design will cost approximately \$1.6 million, but could cost as much as \$1.89 million. The Amendment increases the Total Project Costs to \$1.89 million with a required 35% non-federal cost share of \$661,500. Because the City has received a grant of \$735,000 from the Ohio Department of Natural Resources which it intends to spend entirely on this project, so EPAGLNPO will invoice the City for \$735,000 under this Amendment. This will result in an overmatch to the project. Once the RD is completed, GLNPO expects Ohio EPA will seek Legacy Act funding for implementation of the design. The overmatch will then be used to fund the remedial action if the Project Agreement is amended to include remedial action. If the Project Agreement is not amended a second time, the overmatch will either be refunded to the City or applied to a future project in the AOC.~~

Commented [GMB7]: This sounds like we were just thinking about it. Maybe rewrite as "...between EPA and Ohio EPA with the City of Akron responsible for Ohio EPA's share of the project costs..."

Commented [PS8R7]: From the Agreement. "The parties anticipate that the cash payments under this paragraph will be made by the City of Akron."

Commented [GMB9]: Yes, that is correct.

Statutory Requirements of Project

The Great Lakes Legacy Act sets forth a number of prerequisites for project funding. The Cuyahoga River Gorge Dam project meets those requirements as set forth below.

1. Monitors or Evaluates Contaminated Sediment or Implements a Plan to Remediate Contaminated Sediment, including activities to restore aquatic habitat

The project completes the ~~remedial design of a project that will address the remediation and permanent storage of the contaminated sediments from behind the dam pool structure as well as the structure's removal, which that, when coupled with the ultimate removal of the dam structure, will restore~~ increase fish habitat and improve water quality.

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2. In an Area of Concern

The project is located in the Cuyahoga River Area of Concern.

3. Non-Federal Share at least 35%

Ohio EPA and the City of Akron are ~~is~~ the local sponsors and they are ~~is~~ providing the 35% match for this project.

Concur:

T. Leverett Nelson, Regional Counsel
Office of Regional Counsel

Date

Non-concur:

T. Leverett Nelson, Regional Counsel
Office of Regional Counsel

Date